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EXAMINER

OSTERHOUT, BENJAMIN LEE

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte KARLHEINZ REHM, MICHAEL ROSENBAUER,
and MARTIN STICKEL

Appeal 2011-001595
Application 10/583,699
Technology Center 1700

Before EDWARD C. KIMLIN, ADRIENE LEPIANE HANLON, and
MARK NAGUMO, *Administrative Patent Judges*.

KIMLIN, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 13-32. We have jurisdiction under 35 U.S.C. § 6(b).

Claims 13 and 18 are illustrative:

13. A household washing appliance, comprising:

an electronic program controller for controlling rinsing program sequences, the electronic program controller including a programmable control module having an interface for programming at least one rinsing

program sequence that can be executed by the program controller and the electronic program controller being configured such that programming thereof can be carried out without dismantling parts of the household appliance.

18. The household appliance according to claim 13, wherein the programmable control module contains an operating system that programs the control module.

The Examiner relies upon the following references in the rejection of the appealed claims (Ans. 3):

Anderson	5,917,690	Jun. 29, 1999
Wattrick	5,915,851	Jun. 29, 1999
Harrison	2002/0131243 A1	Sep. 19, 2002
Oyler	2003/0205954 A1	Nov. 06, 2003
Park	WO 02/12610 A1	Feb. 14, 2002

Appellants' claimed invention is directed to a household washing appliance comprising an electronic program controller for controlling rinsing program sequences. The program controller includes a programmable control module, which may contain a microprocessor and/or memory means, and an interface for programming the rinsing sequence. The appliance is configured in such a way that programming can be carried without dismantling parts of the appliance. The interface of the control module may be configured as an infrared interface or a wireless radio connection which allows for external programming of the module. Also, the control module may contain an operating system that programs the control module (claims 18 and 30).

Appealed claims 13, 15-18 and 22 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Park. The appealed claims also stand rejected under 35 U.S.C. § 103(a) as follows:

- (a) Claims 13, 14, 24 and 26-32 over Oyler in view of Park,
- (b) Claims 19 and 25 over Park in view of Anderson,
- (c) Claims 20 and 21 over Park in view of Wattrick,
- (d) And claim 23 over Park in view of Harrison.

We have thoroughly reviewed the respective positions advanced by Appellants and the Examiner. As a result, we will sustain the Examiner's rejections of claims 13-17, 19-29, 31 and 32 for the reasons set forth by the Examiner. We will not sustain the Examiner's rejection of claims 18 and 30.

We consider first the Examiner's § 102 rejection of claims 13, 15-18 and 22 over Park. With the exception of claim 18, we agree with the Examiner that Park describes the claimed subject matter within the meaning of § 102. There is no dispute that Park, like Appellants, describes a washing machine comprising an electronic program controller for controlling washing operations which comprises an interface that allows for programming of the controller. Also, the external programming described by Park may be carried out without dismantling parts of the appliance. The principal argument advanced by Appellants for claims 13 and 15-17 is that "the controller of Park is not disclosed as controlling rinsing program sequences" (Br. 6, second para., emphasis in original).

We agree with Appellants that Park does not specifically articulate a program for controlling rinsing sequences. However, we fully concur with the Examiner that the reference implicitly describes such by expressly teaching that the controller is externally connected to a computer or the like which implements functions by having the controller receive a program required for the washing machine. We are confident that Park would reasonably convey to one of ordinary skill in the art that one of the required

functions of a washing machine that is controlled by Park is a rinsing sequence. Appellants have advanced no argument for why one of ordinary skill in the art would not understand Park as describing a rinsing operation as one of the functions that are implemented by the controller of Park. Manifestly, nothing can be more fundamental to the proper functioning of a washing machine than a washing and rinsing sequence.

We will not sustain the Examiner's § 102 rejection of claim 18 which requires that the control module contains an operating system which programs the control module. Park makes it quite clear that programming of the controller is performed externally to the appliance. The Examiner has not pointed to any component of Park's appliance that performs programming. While the "Examiner finds that the use of an operating system is inherent as a program must be executed through another program that operates as an interface" (Ans. 16, third para.), it is not inherent, as taught by Parks, that the programming component be part of the appliance.

We will also sustain the Examiner's § 103 rejection of claims 13, 14, 24, 26-29 and 31-32 over Oyler in view of Park. We agree with the Examiner that, based on the Park disclosure, it would have been obvious for one of ordinary skill in the art to modify the control module of Oyler such that the controller can be controlled remotely without having to dismantle parts of the washer. We also agree with the Examiner that "the placement of the controller in a bottom tray of a dishwasher is a matter of obvious engineering choice" (Ans. 7, third para.). Appellants have articulated no non-obvious advantage in placing the controller in a bottom tray. Since we agree with the Examiner that Park reasonably describes controlling a rinsing sequence of the washer, we find no merit in Appellants' argument that Oyler

does not remedy the deficiency of Park with respect to controlling a rinsing program.

As for the separately argued claims directed to the specifics of electrical connections, we agree with the Examiner that Anderson, Wattrick, and Harrison evidence the obviousness of utilizing such known components and connectors in any household electrical appliance, including a washing machine. We are not persuaded by Appellants' arguments directed to non-analogous art simply because Anderson, Wattrick, and Harrison are not directed to washing machines. We are satisfied that the benefits of using such components would have been understood by one of ordinary skill in the art as applicable to a wide range of appliances and electrical devices. Appellants have given us no specific reason to conclude otherwise.

We will not sustain the Examiner's § 103 rejection of claim 30 for essentially the same reasons set forth above with respect to the Examiner's § 102 rejection of claim 18. The Examiner has not established the obviousness of modifying the programmable control module of Park to contain an operating system for programming the control module. Again, Park's programming is external to the appliance.

As a final point with respect to the § 103 rejections, Appellants base no argument upon objective evidence of non-obviousness, such as unexpected results.

In conclusion, based on the foregoing, the Examiner's rejection of claims 13-17, 19-29, 31 and 32 is affirmed. The Examiner's rejection of claims 18 and 30 is reversed. Accordingly, the Examiner's rejection of the appealed claims is affirmed-in-part.

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Application 10/583,699

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. §1.136(a)(1)(iv).

AFFIRMED-IN-PART

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